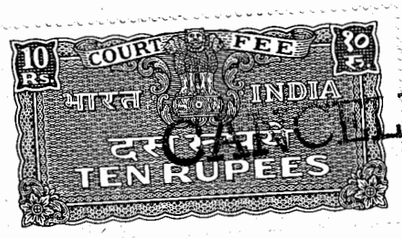

CANCELLED

(1) (3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

Criminal RevisionNo. 232 /2002.

PETITIONER APPLICANT (In Trial Court) : Sunita Devi Kansari W/o Harishchandra Kanshari, aged 25 years, R/o Village-Kedarpur Joda Pipal Nagar, Ambikapur, Distt.- Surguja (C.G.).

VERSUS

RESPONDENT NON-applicant (In Trial Court) : Harishchandra Kansari S/o Bhimsen Kansari, aged 28 years , R/o Village-Palkot P.S. Palkot, Distt.-Gumala (Jharkhand).

REVISION PETITION UNDER SECTION 397 READ WITH SECTION 401 OF CODE OF CRIMINAL PROCEDURE :

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(15)

आदेश पत्रक

मामला क्रमांक Cr. Rev. 233 of 2002 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	29-1-2003 Order passed separately. Signed and dated. Sd/- L.C. Bhadoo Judge	

[redacted]

Barve/

(16)

CRIMINAL REVISION No. 233 OF 2002.

APPLICANT — Sunita Devi Kansari, W/o.Harishchandra Kansari, aged 25 years, R/o.village Kedarpur Joda Pipal Nagar, Ambikapur, Distt.-Sarguja.

Versus

NON-APPLICANT — Harishchandra Kansari, S/o.Bhimsen Kansari, aged 28 years, R/o.village Palkot, P.S. Palkot, District Gumala (Jharkhand).

None appeared for the parties.

ORDER

By Justice L. C. Bhadoo.

1. This criminal revision is directed against the order dated 16th April, 2002, passed in Criminal Revision No. 6/2001 by the Learned First Additional Sessions Judge, Ambikapur, district-Sarguja, by which the Learned Additional Sessions Judge allowed the criminal revision filed by the non-applicant (husband) setting-aside the order passed by the Learned Judicial Magistrate, First Class, Ambikapur, granting Rs.500/- per month towards maintenance allowance in favour of petitioner/applicant (wife).

None is present on behalf of the either of the parties.

I have perused the revision petition as well as the impugned order dt. 16.4.2002 passed by the Learned First Additional Sessions Judge, Ambikapur. The learned Additional Sessions Judge after going through the order passed

by the learned Judicial Magistrate First Class, Ambikapur, statements of the witnesses recorded in the maintenance case, after scrutinizing the evidence and pleadings of the parties has observed that parties entered into an agreement (Ex.D-1) by which the applicant (wife) and non-applicant (husband) agreed to divorce each other and broke their marital chord.

A perusal of the impugned order reveals that when the non-applicant (husband) went to take the applicant (wife) from her parental house to his house, the applicant and her father said to him that if the non-applicant Harishchand Kansari is ready to live in their house only then Sunita Devi will go with applicant, otherwise the father of the applicant was not going to send his daughter with the non-applicant. The applicant's mother and her mother's sister also convened a Panchayat in the village and in that Panchayat it was said that the non-applicant is not providing sufficient and good food to the applicant. The applicant's father has got the hotel business and shop of utensils and thereby he earns about Rs. 8,000/- to Rs. 9000/- per month. Therefore, the applicant and her father wanted that the non-applicant should remain in their house (his in-laws' house) but that was not acceptable to the non-applicant. In view of the above learned Additional Sessions Judge found that the applicant herself does not want to live with her husband and she wants to live with her parents. Apart from that the father of the applicant is in a position to maintain his daughter. In the given situation, the applicant is not entitled for any maintenance under Section 125 of the Cr.P.C. and as such the learned Additional Sessions Judge allowed the criminal revision and set aside the order of learned Magistrate and consequently dismissed the maintenance petition.

(19)

A perusal of the order of the learned Additional Sessions Judge reveals that the element of neglects or refuses to maintain Sunita Devi by her husband Harishchand Kansari is not proved, as such there is nothing on the record which compels this court to reach a conclusion that the finding of the learned Additional Sessions Judge is perverse or contrary to the settled law, as such this revision has no force, the same is liable to be dismissed and is dismissed.

Sd/-
L.C. Bhadoo
Judge

Barve